

In re Application of Brass et al.
Serial No.: 10/809,976

REMARKS

The Office action has been carefully considered. The Office action rejected claims 22-37 and 39 under 35 U.S.C. § 102(b) as being anticipated by 5,628,055 to Stein et al. ("Stein"). Further, the Office action rejected claims 1-18 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Stein in view of U.S. Patent Publication No. 2003/0099212 to Anjum et al. ("Anjum"). Further yet, the Office action rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Stein and Anjum in view of U.S. Patent Publication No. 2004/0178987 to Chen et al. ("Chen"). Still further, the Office action rejected claims 20 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Stein and Anjum in view of U.S. Patent Publication No. 2004/0172531 to Little et al. ("Little"). Finally, the Office action rejected claim 38 under 35 U.S.C. § 103(a) as being unpatentable over Stein in view of Chen. Applicants respectfully disagree.

By present amendment, claims 1, 22, and 39 have been amended for clarification and not in view of the prior art. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Applicants thank the Examiner for the interview held (by telephone) on April 11, 2006. During the interview, the Examiner and applicants' attorney discussed

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the claims with respect to the prior art. The essence of applicants' position is incorporated in the remarks below.

Prior to discussing reasons why applicants believe that the claims in this application are clearly allowable in view of the teachings of the cited and applied references, a brief description of the present invention is presented.

Applicants' technique is generally directed towards an improved system for providing a personal communications server which may be used by other devices. To this end, a computing device, such as a vehicle key or keychain, having a telecommunications interface may provide a means for interfacing with a mobile phone network. The computing device typically may be without any attached audio input and output device as is typically found on a mobile phone, e.g., an earpiece speaker and/or microphone. The computing device does, however, include a network interface for coupling with a network that may include a number of additional computing devices. For example, a separate external audio input and output device is typically coupled to the network to receive audio from the mobile phone network and/or to send audio to the mobile network via the initial computing device, (i.e., the vehicle key). A computer with a network interface may also be coupled with the computing device to receive data from a mobile phone network and/or to send data to the mobile network.

In various embodiments, the computing device may also include a display and/or one or more buttons as a user interface. The display may be in the form of any number of known types of displays such as one or more LEDs, a 2-line alphanumeric display, a monochrome display, or a color display. There may be a

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single button for switching between applications available on the computing device or selecting an operation or command available within a particular application. For instance, a button may be used to answer an incoming phone call in conjunction with a wireless headset or wireless conference station. Additionally, there may be one or more other application buttons dedicated for a particular application, such as locking and unlocking doors of an automobile.

Note that the above description is for example and informational purposes only, and should not be used to interpret the claims, which are discussed below.

Rejections based on §102(b)

Turning to the claims, amended claim 22 generally recites a system for handling phone services, comprising a computing device without an attached audio input and output device, the computing device having at least one standalone operating state and having a telecommunications interface for coupling to a mobile phone network, the telecommunications interface operable to receive data from the mobile phone network including at least some audio and an audio input and output device external to the computing device, the audio input and output device having a network interface for coupling with the computing device to receive audio from the mobile phone network via the telecommunications interface at the computing device.

The Office action rejected claim 22 as being anticipated by Stein. More specifically, the Office action contends that Stein teaches a computing device without an attached audio input and output device, the computing device having a

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telecommunications interface for coupling to a mobile phone network. Fig. 2, Fig. 14, and column 5 lines 28-51 of Stein are referenced. Further, the Office action contends that Stein teaches an audio input and output device external to the computing device, the audio input and output device having a network interface for coupling with the computing device to receive audio from the mobile phone network. Fig. 14 and column 9, line 40 to column 10, line 3 of Stein are referenced. Applicants respectfully disagree.

Stein is directed, generally, to a telecommunications system that allows for wireless internet access for a computer. More specifically, the cited and applied sections of Stein disclose a modular unit, which may typically be a PC card that is operable to engage a mobile phone network. To this end, data may be transmitted to and from the mobile phone network and the computer via the PC card. Furthermore, Stein discloses two audio headsets (316 and 320 in Fig. 14) that are coupled to the computer system via an infrared connection or via a conventional cable. These audio headsets, however, are conventional in nature and Stein does not disclose anything with regard to a network interface being included in the headsets themselves.

In contrast, claim 22 generally recites an audio input and output device external to the computing device, the audio input and output device having a network interface for coupling with the computing device. That is, the audio device itself includes a network interface for coupling to the network. At best, Stein discloses that the headsets are coupled to an audio interface, such as a 1/8" audio

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jack or infrared port. An infrared port or audio jack as taught by Stein is not a network interface.

Furthermore, claim 22 generally recites the audio input and output device having a network interface for coupling with the computing device to receive audio from the mobile phone network via the telecommunication interface at the computing device. As shown above, the headsets disclosed by Stein do not have any kind of network interface. Therefore, the headsets cannot receive data from the network via the computing device. At best, the headsets may receive an audio signal that has been interpreted by some other device (although Stein does not go into any detail as to what device) before being sent as an audio signal to the headsets. As such, Stein does not teach all of the recitations of claim 22.

Notwithstanding these deficiencies, claim 22 has been amended to recite that the computing device is a computing device having at least one standalone operating state. Stein teaches a PC card that necessarily must engage a computer in order to function. In claim 22, however, the computing device, such as a incorporated into a vehicle key or keychain has at least one standalone operating state, (although the recited computing device can also have one or more other states in which it operates when coupled to another device). A PC card does not have such a standalone operating state, and for at least this additional reason, applicants submit that claim 22 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 23-37 by similar analysis, are allowable. Each of these claims depends either directly or indirectly from claim 22 and consequently includes the recitations of independent claim 22.

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As discussed above, Stein fails to disclose the recitations of claim 22 and therefore these claims are also allowable over the prior art of record. In addition to the recitations of claim 22 noted above, each of these dependent claims includes additional patentable elements.

For example, claim 28 recites the system of claim 22 wherein the network interface for coupling with the computing device comprises a personal area network interface. As discussed above, Stein does not teach a network interface within any audio device. Thus, Stein cannot possibly teach that the network interface in the audio device is a personal area network. For at least this additional reason, applicants submit that claim 28 is allowable over the prior art of record.

Turning to the next claim rejected under §102(b), amended claim 39 recites a system for handling phone services, comprising means for coupling a computing device without an attached audio input and output device to a mobile phone network and operable to receive data from the mobile phone network including at least some audio and means for coupling an audio input and output device to the computing device for receiving audio from the mobile phone network at the computing device including at least some audio data.

The Office action rejected claim 39 as being unpatentable over Stein. More specifically, the Office action, in the rejection of claim 39, cites the same sections of Stein that were cited with regard to the rejection of claim 22. Applicants respectfully disagree.

As discussed above, Stein is directed, generally, to a telecommunications system that allows for wireless internet access for a computer. However, Stein

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merely discloses two audio headsets that are coupled to the computer system via a conventional infrared connection or via a conventional cable. These audio headsets are conventional in nature and Stein does not disclose anything with regard to a network interface being included in the headsets themselves.

In contrast, claim 39 generally recites means for coupling an audio input and output device to the computing device for receiving audio from the mobile phone network at the computing device. That is, the audio device itself includes a means, such as a network interface, for coupling to the network. At best, Stein discloses that the headsets are coupled to an audio interface, such as a 1/8" audio jack or infrared port. These types of couplings are for audio signals alone and cannot be construed as a network type of interface. As such, Stein does not teach all of the recitations of claim 39 and applicants submit that claim 39 is allowable over the prior art of record.

Rejections based on §103(a)

Turning to claim 1, amended claim 1 generally recites a system for handling phone services, comprising a computing device without an attached audio input and output device, the computing device having at least one standalone operating state and having a telecommunications interface for coupling to a mobile phone network, the telecommunications interface operable to receive data from the mobile phone network including at least some audio data; and a computer without a telecommunications interface for coupling to a mobile phone network, the computer having a network interface for coupling with the computing device to receive data

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from the mobile phone network via the telecommunications interface at the computing device including at least some audio data.

The Office action rejected claim 1 as being unpatentable over Stein in view of Anjum. More specifically, the Office action contends that Stein teaches a computing device without an attached audio input and output device, the computing device having a telecommunications interface for coupling to a mobile phone network. Fig. 2, Fig. 14, and column 5 lines 28-51 of Stein is referenced. Further, the Office action acknowledges that Stein does not teach a computer without a telecommunications interface for coupling to a mobile phone network. However, the Office action contends that Anjum teaches this recitation in citing page 2, paragraphs 0022-0023 of Anjum. The Office action concludes that one skilled in the art at the time the invention was made would have obviously combined the teachings of Stein with the teachings of Anjum because allowing additional devices to communicate on a mobile network increases communication efficiency. Applicants respectfully disagree.

By law, in order to establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). In addition, "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Further, if prior art, in any material respect teaches away from the claimed invention, the art cannot be used to support an obviousness rejection. *In re Geisler*, 116 F.3d 1465, 1471, 43 USPQ2d 1362, 1366 (Fed Cir. 1997).

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Applicants submit that the Office action has failed to establish a *prima facie* case for obviousness. In specific, Stein does not disclose that which the Office action contends. As discussed previously, Stein is directed, generally, to a telecommunications system that allows for wireless internet access for a computer. More specifically, the cited and applied sections of Stein disclose a modular unit, which may typically be a PC card that is operable to engage a mobile phone network. To this end, data may be transmitted to and from the mobile phone network and the computer via the PC card. Additionally, Stein discloses two audio headsets that are coupled to the computer system via an infrared connection or via a conventional cable. These audio headsets, however, are conventional in nature and Stein does not disclose anything with regard to a network interface being included in the headsets themselves.

In contrast, claim 1 generally recites a computing device without an attached audio input and output device, the computing device having a telecommunications interface for coupling to a mobile phone network. That is, the computing device itself includes a network interface for coupling to the network. At best in Stein, the headsets are coupled to an audio interface, such as a 1/8" audio jack or infrared port. An infrared port or audio jack is not a network interface.

Furthermore, claim 1 generally recites a computer having a network interface for coupling with the computing device to receive data from the mobile phone network via the telecommunications interface at the computing device. As shown above, the headsets disclosed by Stein do not have any kind of network interface. Therefore, the headsets cannot receive data from the network via the

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computing device. At best, the headsets may receive an audio signal that has been interpreted by some other device (although Stein does not go into any detail as to what device) before being sent as an audio signal to the headsets. As such, Stein does not teach all of the recitations of claim 1.

Anjum (even if somehow permissible to combine with Stein) does not cure these significant deficiencies in the teachings of Stein. Anjum is directed to a system for efficiently realizing communication between a network and several Bluetooth-enabled devices. Specifically, the cited section of Anjum discloses having a system capable of allowing more than seven Bluetooth devices coupled to the same network access point. The Office action correctly acknowledged that Stein does not teach a computer without a telecommunications interface for coupling to a mobile phone network but having a network interface for coupling to the computing device. However, Anjum merely discloses a system wherein several devices may be in networked communications with each other either directly or through a master device. Anjum does not disclose anything about a mobile phone network or any specific device that may communicate with a mobile phone network. While Anjum tends to show general communications abilities, there is no specific teaching of the recitation of claim 1.

Further, the motivation to combine this disparate art is tenuous at best. Simply showing that Anjum provides for various devices to communicate on various platforms does not teach or suggest the specific recitations of claim 1. Such obviousness conclusions are overly broad. Bear in mind that such broad, conclusory statements do not come close to adequately addressing the issue of

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motivation to combine, are not evidence of obviousness, and therefore are improper as a matter of law. *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Notwithstanding these deficiencies, claim 1 has been amended to recite that the computing device is a computing device having at least one standalone operating state. Anjum does not address this issue in any manner whatsoever. Stein teaches a PC card that necessarily must engage the computer in order to function. In claim 1, however, the computing device, such as a vehicle key or keychain, has at least one standalone operating state. A PC card is does not have such a standalone operating state, and for at least this additional reason, applicants submit that claim 1 is allowable over the prior art of record. For at least these reasons, applicants submit that claim 1 is allowable over the prior art of record.

Applicants respectfully submit that dependent claims 2-21, by similar analysis to claim 1, are allowable. Each of these claims depends either directly or indirectly from claim 1 and consequently includes the recitations of independent claim 1. Stein and Anjum, whether considered alone or in any permissible combination with each other or any other prior art of record, fail to teach or even suggest the recitations of claim 1 and therefore these claims are also allowable. Even when additional art is introduced, such as with the case of Chen and Little, (leaving aside whether such additional art may be permissibly combined), the prior art of record still fails to teach or suggest the recitations of the claims. In addition

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to the recitations of claim 1 noted above, each of these dependent claims includes additional patentable elements.

For example, claim 9 recites the system of claim 1 wherein the network interface for coupling with the computing device comprises a personal area network interface. As discussed above, Stein does not teach a network interface within any audio device. Thus, Stein cannot possibly teach that the network interface in the audio device is a personal area network. For at least this additional reason, applicants submit that claim 9 is allowable over the prior art of record. .

Applicants respectfully submit that dependent claim 38, by similar analysis to claim 22, is allowable. Claim 38 depends ultimately from claim 22 and consequently includes the recitations of independent claim 22. Stein, Anjum, and Chen, whether considered alone or in any permissible combination with each other or any other prior art of record, fail to teaches or even suggest the recitations of claim 22 and therefore these claims are also allowable. In addition to the recitations of claim 22 noted above, this dependent claim includes additional patentable elements.

Applicants respectfully submit that dependent claim 40, by similar analysis to claim 39, is allowable. Claim 40 depends ultimately from claim 39 and consequently includes the recitations of independent claim 39. Stein and Anjum, whether considered alone or in any permissible combination with each other or any other prior art of record, fail to teaches or even suggest the recitations of claim 39 and therefore these claims are also allowable. In addition to the recitations of claim

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39 noted above, each of these dependent claims includes additional patentable elements.

For at least these additional reasons, applicants submit that all the claims are patentable over the prior art of record, whether considered alone or in any permissible combination. Reconsideration and withdrawal of the rejections in the Office Action is respectfully requested and timely allowance of this application is earnestly solicited.

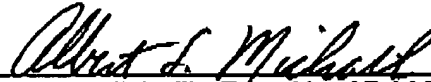
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CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-40 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,



Albert S. Michalik, Reg. No. 37,395
Attorney for Applicants
Law Offices of Albert S. Michalik, PLLC
704 - 228th Avenue NE, Suite 193
Sammamish, WA 98074
(425) 836-3030
(425) 836-8957 (facsimile)

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment, along with transmittal and facsimile cover sheet, are being transmitted by facsimile to the United States Patent and Trademark Office in accordance with 37 C.F.R. 1.6(d) on the date shown below:

Date: May 25, 2006


Albert S. Michalik

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